

EXHIBIT 4

July 18, 2022

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

SHERROD, TEED, VANDERHAGEN and WARE,

Plaintiffs,

-v-

Case No. 17-10164

VNA and LAN,

Defendants.

/

HEARING

BEFORE THE HONORABLE JUDITH E. LEVY
UNITED STATES DISTRICT JUDGE

JULY 18, 2022

APPEARANCES:

For the Corey M. Stern
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(Appearances Continued on Next Page)

TO OBTAIN A
CERTIFIED
TRANSCRIPT:

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FEDERAL OFFICIAL COURT REPORTER
UNITED STATES DISTRICT COURT
200 EAST LIBERTY STREET
ANN ARBOR, MICHIGAN 48104

1 words. To the extent this was deliberate, this was written by
2 these plaintiffs' lawyers deliberately said to the court on
3 which Your Honor gave rulings on which a huge settlement was
4 achieved on behalf of the plaintiffs.

5 Not that that has anything to do with what we're
6 talking about here. But these were most assuredly deliberate
7 statements and that they were made on behalf of the
8 plaintiffs. The personal knowledge requirement simply does
9 not apply by rule and by multiple case law.

10 THE COURT: Thank you.

11 In the First Circuit in 2021, Atlas Glass and Mirror
12 Inc v Tri-North Builders Inc. The First Circuit said courts
13 have broad discretion to relieve parties from the consequences
14 of judicial admission in appropriate cases.

15 And to the extent I have discretion, I understand --
16 I set forth other reasons in our earlier hearing. I think it
17 was Wednesday of last week. But the fact that the complaint
18 in total was listed as an exhibit in the final pretrial order
19 does not come close to informing me that -- of which
20 paragraphs you would want to submit to the jury.

21 And providing this on the eve of finishing the trial
22 to me is just -- I simply exercise my discretion against
23 allowing it to the extent discretion is a factor here.

24 MR. CAMPBELL: Your Honor, if I can --

25 THE COURT: Let me just say, it's too much, too late

1 because there is no way for me to responsibly rule on all that
2 you have put before me in the last week before trial and 410
3 pages in one day of this weekend.

4 So go ahead, Mr. Campbell.

5 MR. CAMPBELL: Your Honor, again, with respect to the
6 Atlas case and a reference to judicial admissions and relief
7 from that, I believe what that case concerned is a situation
8 wherein the pleadings wherein a judicial admission was made,
9 it's within the discretion of the Court to reactivate whatever
10 was taken out by that judicial admission, whether it was a
11 defense or a claim.

12 That is entirely 100 percent different than what
13 we're talking about here. We're talking about admissions by
14 the plaintiff made in an authorized manner in the most formal
15 way, in the most deliberate and the most chosen of *worse way.
16 You simply cannot be more careful with the admissions than in
17 this complaint by these plaintiffs.

18 And in terms of the timing, Your Honor, again I'm
19 literally as a loss as to what we should do. We identified it
20 as exhibit. The plaintiffs chose not to file a motion in
21 limine. Your Honor's previous ruling about the closing, you
22 chastised VNA for not bringing it up earlier than this.

23 The burden is on the plaintiff. If they had a motion
24 in limine, it was theirs to make. This complaint was brought
25 up several times before now, including with the testimony of